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JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Zicha :
Application No. 10/050,937 :
Filed: January 22, 2002 :
Title: Internally Resilient Tie for Railway Track :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 29, 2005.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 3, 2004. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on December 30, 2004. An Advisory Action was mailed on January 26, 2005 informing applicant the response filed did not place the application in condition for allowance. An untimely amendment was filed on April 11, 2005. Accordingly, this application became abandoned on February 3, 2005. A Notice of Abandonment was mailed on August 12, 2005.

Petitioner contends that the April 11, 2005 amendment was submitted in response to the Advisory Action mailed on January 26, 2005. Petitioner request that the holding of abandonment be withdrawn.

Petitioner's argument has been considered but has been deemed to be unpersuasive. The Final Office Action provided petitioner with a shortened statutory period for reply of February 3, 2005. Petitioner could have purchased an additional three months, providing petitioner with a maximum reply period of May 3, 2005. The advisory action informed petitioner that the amendment submitted on December 30, 2004 did not place the application condition for allowance. The advisory action did not provide petitioner with a new period for reply but did inform petitioner that extensions of time may be available under 37 CFR 1.136(a).

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

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